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February 7, 1997

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BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: TRICOM, S.A.'s Comments To Notice Of Proposed Rulemaking

Dear Mr. Caton:

Enclosed for filing please find the original and eight copies of TRICOM, S.A. Comments to Notice of Proposed Rulemaking.

Very truly yours,

Judith D. O'Neill
Janet Hernandez

Enclosures

No. of Copies rec'd 0+8
List ABCDE

Before the
Federal Communications Commission
Washington, D.C. 20544

In the Matter of	)	
	)	IB Docket No. 96-261
International Settlement Rates	)	

COMMENTS OF TRICOM, S.A.

In response to the *Notice of Proposed Rulemaking* ("NPRM") issued by the Federal Communications Commission ("Commission") on December 19, 1996, TRICOM S.A. ("TRICOM") respectfully submits its Comments. TRICOM is a full-service carrier that provides international and domestic long distance service, as well as local service, in the Dominican Republic.

The Commission is attempting to decrease settlement rates that are generally substantially above the costs incurred by foreign carriers to terminate international traffic. To accomplish this, the Commission has proposed various alternatives for revising the benchmark settlement rates for international message telephone service ("IMTS") between the United States and other countries. TRICOM fully understands the Commission's goals and appreciates the concern expressed by the Commission in the NPRM that the telecommunications systems of developing countries not be stunted by the Commission's actions.

As the Commission recognizes, competition between providers of telecommunications services is a major factor in the development of that sector.

Accordingly, TRICOM respectfully suggests that the Commission adopt a policy that encourages such competition. It can do this by adjusting the time-table for implementation and the benchmark level for lower-middle income countries such as the Dominican Republic.

I. INTRODUCTION

TRICOM is a Dominican full-service carrier, owned 60% by Dominican private interests and 40% by Motorola of the United States. TRICOM is a relatively new carrier which has successfully broken the former 62-year monopoly of the dominant Dominican carrier, CODETEL, a wholly-owned subsidiary of GTE of the United States. Since TRICOM's full-service entry into the telecommunications service market in the Dominican Republic in 1993 the accounting rates between the Dominican Republic and the United States have declined by 38% (from $1.29 to $0.80). This is in sharp contrast to the prior reported total lack of progress in reduction of accounting rates with the monopoly, CODETEL, lamented by AT&T in its reports in Docket CC: 90-337, Phase II.[1] It is TRICOM's entry into the Dominican Republic marketplace and its ability to sustain investment sufficient to combat CODETEL's monopolistic practices that is directly responsible for reducing accounting rates.

Thus, the Commission's policy that real competition in foreign markets benefits U.S. users by causing that wholesale and retail rates in foreign jurisdictions to be based more on underlying costs than on monopoly control has been proven correct. The

1. *In the Matter of Regulation of International Accounting Rates*, 6 FCC Rcd 3434, Appendix C (1991).

balance the Commission now faces -- to encourage further and more robust competition in foreign jurisdictions while continuing to reduce the accounting rate to its lowest possible cost-based point -- is a delicate one. If the Commission acts in the extreme on the latter, it may impair, if not destroy, its progress on the former.

Specifically, TRICOM is concerned that the accounting rate benchmark for the Commission's proposed "middle-income" countries in the NPRM may have dire results for TRICOM and the Dominican Republic. Classification of the Dominican Republic as a middle income country will have detrimental consequences which will flow both from the resulting benchmark rate and the time of implementation of that rate.

II. BENCHMARKING SHOULD BETTER REFLECT NATIONAL SITUATIONS AND COUNTRIES WITH COMPETITIVE CARRIERS

First, the economic level and per-capita distribution of the gross national product in the Dominican Republic would be at the extreme bottom of a very broad-ranging category of "middle-income" countries under the Commission's proposed categories. It would be more accurate and appropriate to: (i) use the four categories adopted by the World Bank and not merge the "lower-middle income" and "upper-middle-income" groups; and (ii) assign more realistic benchmarking levels and implementation times to the lower-middle income group. Refinement of the grouping would make the adverse impact on the countries that fall at the bottom of the Commission's proposed middle-income group less dramatic.

Secondly, an unfortunate, but predictable result of a long-term monopoly environment is that each economic break-through by the emerging would-be competitor is very time-consuming and arduous. It took four years of negotiation, litigation, and the involvement of the Dominican Government and the International Telecommunication Union, for TRICOM to require the former monopoly, CODETEL, to enter into an interconnection agreement with it. During much of this time TRICOM could not provide full services. It then took another full year to implement the interconnection agreement. TRICOM is still burdened with a series of arbitrations, continuing through the present, that have been required to "encourage" CODETEL to honor the terms of the interconnection agreement.

Part of the ongoing arbitrations relates to CODETEL's setting of the access charge to be paid by TRICOM to it. The Commission has stated that the cost of the national extension component under the tariff component price is 6.1 cents for the Dominican Republic. TRICOM, however, must pay CODETEL access charges alone which are nearly three times higher than the Commission's rate for the national extension costs in the Dominican Republic; exceed the proposed country specific benchmark of the Dominican Republic; and are at a level which approximates the Commission's suggested benchmark. Thus, it is unclear how the Commission calculations were conducted for such a benchmark.

While the access charge is currently in arbitration, the concepts of using incremental cost factors as a determinant of proper interconnection charges is new for Dominican arbitrators, as is the distinction between the incremental cost approach and the traditional approach of fully amortizing the network in setting the rate. Thus, accountants must be educated, studies must be commissioned by the arbitrators, and a learning curve in the economics of providing telecommunications services must be satisfied.

Similarly, as experienced in the United States and other environments in which new competitors have entered a formerly closed market, the incumbent dominant carrier, has demanded an excessive contribution by the new entrants to the "universal service" goals of the government. In the case of the Dominican Republic, CODETEL has suggested definitions of carriers and carrier obligations to it, CODETEL, for a retroactive subsidy of universal service, as well as for future requirements. The suggestions naturally disfavor CODETEL's competitors, and arbitration on these issues is proceeding and is likely to ongoing well into the future.

As a result, the "cost" to new carriers operating in a previously-controlled monopoly environment to provide telecommunications services includes considerable litigation, personnel whose exclusive responsibility is dealing with obstreperous behavior of the dominant carrier, modern interest rates suffered as a result of the requirement to build new infrastructure in a high-risk lending environment (as are most emerging economies). This expense is compounded by the lack of strong national capital markets, or experience in other capital markets for debt or equity issuances from the developing country. All of which makes the cost of financing new infrastructure extremely high.

These costs are in addition to the construction of buildings, the hiring of personnel, economic incentives which a new carrier is required to provide, and other normal operating costs with which U.S. companies are more familiar.

Although these costs may not be experienced by or perhaps remembered by U.S. carriers, such as AT&T (which provide estimates of U.S. 7.5 cents per minute as the incremental cost of terminating international service), they dramatically change the profitability picture for a new market entrant in an emerging economy with an aggressive former monopolist. If TRICOM were required to settle its U.S. traffic at the proposed U.S. 19.1 cents per minute, for example, it would simply cease carrying IMTS traffic.

Naturally, once its Dominican competitor is eliminated, CODETEL, with a substantial in-place infrastructure, which has been fully amortized and does not suffer its own extravagant access and interconnection charges, reluctantly may comply with the benchmarked rates until it is comfortable that its monopoly position has been restored. The latter, naturally, changes the leverage of the negotiations, and ultimately enures to the detriment of U.S. service users.

Also, the amount of time required to allow human behavior to catch up with legislated or political pronouncements of liberalization is long. In the United States, depending upon how certain stages of market liberalization are analyzed, it took ten years or more for market and carrier behavior to reflect the result contemplated by the underlying legislation or rule-makings.

For the reasons noted above, therefore, an accounting rate benchmark of U.S. 38.2 cents for traffic between the United States and the Dominican Republic carriers will seriously breach the balance between encouraging and supporting competition abroad and lowering the accounting rate to the lowest possible level to maintain the balance. Also, an implementation period of two years (or even the alternative three years) for the Dominican Republic is unrealistically short, where as noted above (and in other filings by TRICOM), it took TRICOM more than that time to get to the point of paying excessive interconnection and access fees. Thus, TRICOM proposes that the transition period be extended for lower-middle countries from the proposed two-year period to at least a four to five year time period.

III. CONCLUSION

For the reasons stated above, TRICOM proposes that the Commission create a fourth category for lower-middle income countries which provides for a higher settlement benchmark than U.S. 19.1 cents per minute and a longer implementation period of at least four to five years.

Respectfully submitted,

TRICOM, S.A.

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CERTIFICATE OF SERVICE

I, James A. Littau, do hereby certify that the foregoing COMMENTS OF TRICOM S.A. has been furnished, via first class mail, on this 7th day of February, 1997, to the following:

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